

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BERT VLADIMIR,
individually and on behalf of
others similarly situated,

Plaintiff,

v.

BIOENVISION, INC., CHRISTOPHER B.
WOOD and JAMES S. SCIBETTA,
Defendants.

CIVIL ACTION NO.
07-CV-6416-(SHS)

STATEMENT OF NON-OPPOSITION

On October 3, 2007, this Court issued an order requesting a statement from Defendants as to whether they would challenge the adequacy of Gary Thesling to serve as lead plaintiff in this case “based on his initial certification and the clarifications in the subsequent papers . . .” The Court instructed Defendants to make their statement “assum[ing] no new facts were to arise” such as “proof of an agreement by counsel to make improper payments to Thesling.” Defendants do not intend, at this juncture of the case, to challenge Mr. Thesling’s adequacy based on the statements made in, and then removed from, his certification.

In addition, Defendants do not take any position at this time regarding the appropriateness of any particular proposed lead plaintiff or counsel to represent the putative class in this action. Defendants do, however, respectfully reserve all rights to oppose on all appropriate grounds any motion for the certification of any class that may be filed at a later date in this action. Such grounds potentially may include that the claims of one or more of any proposed class representatives may not be typical of the claims of the putative class, or that one or more of the proposed class representatives will not fairly and adequately protect the interests

of the putative class. The Reform Act contemplates precisely this. See H.R. Conf. Rep. No. 104-369 at 34 (1995), reprinted in 1995 U.S.C.C.A.N. at 733 (lead plaintiff provision “not intended to affect current law with regard to challenges to the adequacy of the class representative or typicality of the claims among the class”). Thus, if for example, discovery were to show that Mr. Thesling was indeed participating in this action based on an expectation of getting paid amounts beyond that legally permissible, Defendants would seek to challenge his adequacy.

Dated: October 10, 2007

/s/ Alexis L. Shapiro
Alexis L. Shapiro (AS-7538)
GOODWIN PROCTER LLP
53 State Street
Exchange Place
Boston, MA 02119
Tel: 617.570.1000
Fax: 617.523.1231
ashapiro@goodwinprocter.com

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that this document was served electronically upon all counsel of record on October 10, 2007.

/s/ Alexis L. Shapiro

Alexis L. Shapiro